

# United States District Court, Northern District of Illinois

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|---|----------------------------|---|---------------|
| Name of Assigned Judge<br>or Magistrate Judge | Blanche M. Manning         | Sitting Judge if Other<br>than Assigned Judge |               |
| CASE NUMBER                                   | 11 C 6369                  | DATE  | March 8, 2012 |
| CASE<br>TITLE                                 | <i>U.S. Bank v. Patton</i> |   |               |

**DOCKET ENTRY TEXT:**

U.S. Bank's motion for summary judgment [18] and for appointment of a special commissioner [20] are granted. A judgment of foreclosure is entered in favor of U.S. Bank in the amount of \$373,773.80 plus interest of \$19.68 per day after November 7, 2011, plus attorneys' fees and costs in the amount of \$2,354.00. Defendants Aegis Mortgage, the IRS, and American Express remain pending as defendants. To the extent that proceeds from the sale exceed the amount owed to U.S. Bank, the court will consider the priority of these defendants' liens following the sale. Status is set for June 7, 2012, at 11:00 a.m.

■ [ For further details see text below.]

**STATEMENT**

Plaintiff U.S. Bank filed this mortgage foreclosure action against Davonne Patton, Aegis Mortgage Corporation (which filed a lis pendens action against the property), American Express Centurion SVS Corporation (which has a recorded judgment against Mr. Patton), and the Internal Revenue Service ("IRS") (which has three recorded tax liens against Mr. Patton). All of the defendants were served. Only the IRS filed an answer. The court notes that the IRS denies that the amount in controversy required for diversity jurisdiction has not been met but the amount allegedly due under the mortgage very substantially exceeds \$75,000. Thus, the court will consider U.S. Bank's motion for summary judgment [18] and for appointment of a special commissioner [20], which are presently before the court.

None of the defendants responded to the motions. Accordingly, all of U.S. Bank's facts are deemed admitted. *See* L.R. 56.1(b)(3)(C). Having reviewed U.S. Bank's undisputed facts, the court concludes that U.S. Bank is the current holder of a mortgage and note on the property at issue in this case. Mr. Patton failed to make the required monthly payments starting in May of 2011 through the present. Accordingly, judgment is granted in favor of U.S. Bank and against Mr. Patton.

The mortgage was recorded on June 30, 2005. Aegis' lis pendens action was recorded on August 6, 2007, American Express' judgment was recorded on February 14, 2008, and the IRS's federal tax liens were

(continued)

Courtroom Deputy  
Initials:

RTH/c

## STATEMENT

recorded on May 21, 2009 (\$175,747.47), June 21, 2010 (\$37,315.26), and February 28, 2001 (\$87,826.95). The liens held by Aegis, the IRS, and American Express are junior and subordinate to the lien held by U.S. Bank as U.S. Bank's lien was recorded first. Accordingly, U.S. Bank's motion for summary judgment as to Mr. Patton and the property is granted. The court further finds that U.S. Bank is entitled to costs and fees and that the amounts requested are reasonable.

Thus, a judgment of foreclosure is entered in favor of U.S. Bank in the amount of \$373,773.80 plus interest of \$19.68 per day after November 7, 2011, plus attorneys' fees and costs in the amount of \$2,354.00. U.S. Bank's motion for the appointment of a special commissioner is also granted. Defendants Aegis Mortgage, the IRS, and American Express remain pending as defendants. To the extent that proceeds from the sale exceed the amount owed to U.S. Bank, the court will consider the priority of the other defendants' liens following the sale. Status is set for June 7, 2012, at 11:00 a.m.